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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

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6 EURO MOTOR SPORT, INC. and
7 SAMMIE BENSON,

8 Plaintiffs,

9 v.

10 ARB LAS VEGAS d/b/a LAS VEGAS
TOWING,

11 Defendants.
12

Case No. 2:21-cv-00177-GMN-DJA

ORDER

13 The parties have submitted a joint motion to extend discovery deadlines (ECF No. 35) and
14 a stipulation to their joint motion (ECF No. 36). Through these filings, the parties seek to extend
15 their remaining discovery deadlines to after Defendant files its answer. However, because the
16 Court finds that the parties have not complied with Local Rule 26-3, it denies the joint motion and
17 stipulation without prejudice. The Court finds these matters properly resolved without a hearing.
18 LR 78-1.

19 **I. Background.**

20 In their joint motion, the parties explain that Defendant first appeared in the case—
21 triggering the 26(f) conference and discovery deadlines—by filing a motion to dismiss. They did
22 not realize, however, that in the event Defendant’s motion to dismiss is not granted, Defendant
23 will have to file its answer fourteen days later. Without an extension the parties fear that
24 discovery deadlines could run without Defendant’s answer and thus, “knowledge of what
25 Defendant’s position will be regarding the proper parties in this cause, i.e., whether Plaintiffs
26 have filed a cause of action against the proper party, whether there is another party that is liable,
27 etc.” (ECF No. 35, at 3).
28

1 The parties ask to extend the discovery cutoff, dispositive motion deadline, and joint
2 pretrial order deadline. The discovery cutoff motion was previously August 20, 2021. (ECF No.
3 30). The dispositive motion deadline was September 19, 2021. (ECF No. 30). The joint pre-trial
4 order deadline was October 19, 2021. (ECF No. 30).

5 **II. Discussion.**

6 The Court denies the parties' request to extend discovery deadlines based on a contingent
7 date. When seeking an extension of a date set by a discovery plan and scheduling order, a party
8 may file a motion *or* stipulation. LR 26-3. A request to extend deadlines made within twenty-
9 one days of the subject deadline must be supported by a showing of good cause. LR 26-3. That
10 motion or stipulation must include a proposed schedule for completing all remaining discovery.
11 LR 26-3(d).

12 Here, the parties have mostly complied with LR 26-3, but have proposed an unworkable
13 schedule based on a contingency. The parties have filed both a motion and a stipulation, although
14 only a stipulation was required because the parties agree. Unorthodox filings aside, the parties
15 explain that they met the good cause requirement because they realized that they will be unable to
16 meet their discovery deadlines if Defendant files an answer. While the Court does not completely
17 agree that this circumstance was completely unforeseen, it does find that the parties have shown
18 good cause to extend discovery.

19 The parties have not, however, properly proposed a schedule for completing remaining
20 discovery. The parties propose that the deadline clock begin running—ninety days for the
21 discovery cutoff, 120 days for the dispositive motion deadline, and 150 days for the pretrial
22 order—if and when Defendant files its answer. But the parties' proposal is unworkable because it
23 is based on a contingency. The parties must propose concrete deadlines. The Court thus denies
24 the parties' joint motion and stipulation and orders the parties to file a new stipulation (not a joint
25 motion) that follows LR 26-3 and IA-6-1 closely and sets out a new proposed schedule with
26 proposed dates. The parties are reminded that, should they feel the need to ask for more time,
27 they must do so through either a motion or a stipulation under LR 26-3.
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1 **IT IS THEREFORE ORDERED** that the parties' joint motion (ECF No. 35) and
2 stipulation (ECF No. 36) are **denied** without prejudice.

3 **IT IS FURTHER ORDERED** that the parties must file a stipulation following LR 26-3
4 and IA 6-1 which outlines concrete deadlines.

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6 DATED: August 23, 2021

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9 DANIEL J. ALBRECHTS
10 UNITED STATES MAGISTRATE JUDGE
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